

MINUTES
**Commission for Mental Health, Developmental Disabilities and
Substance Abuse Services**
Sheraton Capital Center Hotel (421 S. Salisbury Street)
Raleigh, North Carolina

Wednesday, February 4, 2004

Attending:

Commission Members Present:

Pender McElroy, Chairman, Lois Batton, Patricia Chamings, Laura Coker, Dorothy Crawford, Mansfield Elmore, Pearl Finch, Albert Fisher, George Jones, Mary Kelly, Judy Lewis, Martha Macon, Martha Martinat, Emily Moore, Floyd McCullouch, Tom Ryba, Anna Scheyett, Don Stedman, Fredrica Stell, Ann Suggs, Marvin Swartz, Lou Grubb Adkins, Ann Forbes

Commission Members Absent:

Mazie Fleetwood (excused), Paul Gulley (unexcused), Ellen Holliman (unexcused), Raymond Reddrick (unexcused), William Sims (unexcused), Bernard Sullivan (excused)

DMH/DD/SAS Staff Present:

Richard Visingardi, Division Director
Don Willis, Chief, Administrative Support Section
Peggy Balak, Division Affairs Team Leader
Stephanie Alexander, Division Affairs Team
Susan Collins, Division Affairs Team
Cindy Kornegay, Division Affairs Team

Others Present:

Jack Blackley (DMH/DD/SAS), Leza Wainwright (DMH/DD/SAS), Flo Stein (DMH/DD/SAS), Chris Phillips (DMH/DD/SAS), Joan Kaye (DMH/DD/SAS), Bob Hedrick (NC Providers Council), Holly Riddle (NC Council on Developmental Disabilities), Charles Franklin, (Albemarle MHC), Jeff Horton (Division of Facility Services), Michael Mayer (NC Community Support Providers Council), Cynthia Ttemochenko (GACPD), Chris Corsbie (Sandhills-Randolph MH), Dick Oliver (DMH/DD/SAS), Bonnie Morell (DMH/DD/SAS), Sherri Swartz (Value Options, Inc.), Carol Duncan Clayton (NC Council on MH/DD/SA Community Programs), Kathy Neal (Alcohol/Drug Council of NC), Karen Stallings (NC Association of Self Advocates), Kenneth Stallings (NC Association of Self Advocates), Jill Hinton Keel (Autism Society of NC), Dave Richard (The Arc of NC), Ellen Russell (The Arc of NC), Charlotte Craver (Value Options, Inc.), Louise Fisher (Volunteer Advocate for the Mentally Ill), Paula Cox (Volunteer Advocate/Sister & Guardian of MRC Consumer), Diane Pomper (AG's Office), Joe Donovan (DMH/DD/SAS), Bob Hedrick (NCCSPC), John Crawford (Macon County)

Handouts:

Agenda, Minutes of 11-24-03 Commission Meeting, Proposed Rule Language for LME Requirements Rules, Proposed Rule Language for Provider Requirements Rules, Rules Committee Membership List, Advisory Committee Membership List, Updated Commission Membership List, The Arc of NC Comments to the MH/DD/SAS Commission, DD Perspective on the Mental Health-DD-Substance Abuse Reform Process

Called To Order

Chairman Pender McElroy called the meeting to order at 9:45 a.m.

Approval of Minutes

Martha Martinat moved to approve the Minutes of the November 24, 2003 Commission meeting. Fredrica Stell seconded the motion. The motion to approve the Minutes passed unanimously.

Chairman's Report

Introductions were made by the Commission members, the staff and the audience.

Mr. McElroy informed the Commission that Anna Scheyett has been reappointed. He introduced Ann Forbes as a new member and welcomed her to the Commission.

Mr. McElroy informed the members that Dave Richard of the Arc of NC has been appointed as an ex-officio member of the Advisory Committee and Ellen Russell has been appointed as an ex-officio member of the Rules Committee.

The Chairman said Mazie Fleetwood is excused for surgery and is doing well.

Mr. McElroy related that he had been asked by the Advisory Committee to bring forward to the full membership the Committee's discussion the previous day regarding the status of the Division Director's position. In view of the expected resignation of Dr. Visingardi, the Advisory Committee proposed that the Commission advise the Secretary of its concerns regarding the potential vacancy and the process for selecting a new director. Mr. McElroy stated that the consensus of Advisory Committee was to request that the Secretary conduct a nation-wide search similar to that used in the selection of Dr. Visingardi. Committee members want to ensure that the process will result in the selection of a director as qualified as Dr. Visingardi. The Committee also recommends that the selection process begin as soon as possible.

Mr. McElroy stated that after the Advisory Committee met, it was pointed out to him that the timing of the selection process must be considered in light of the statewide fall elections. There was concern that the uncertainty that comes with the election process may impact the number and qualifications of the candidates who would be interested in the Director's position.

Dr. Rich Visingardi clarified the newspaper article that addressed the probability of his returning to Michigan. He informed the members that he would likely be with the Division for most of calendar year 2004. He stated that the system reform he came to North Carolina to oversee is not yet to the point that he is comfortable with leaving, but as a change agent, he has always recognized that he would not remain in his position throughout the implementation. Dr. Visingardi supported the Commission's position to express its concerns to the Secretary and provide advice on the subject of a selection

process. Further, he expressed appreciation to all Commission members and the staff and said the face of reform is in this room, not himself.

Floyd McCullough made a motion a letter be sent to the Secretary expressing the Commission's position that the search for a new qualified Director begin as soon as possible. Don Stedman seconded the motion. Mr. McElroy stated he would write a letter on behalf of the Commission expressing their appreciation of Dr. Visingardi and their position on the selection process. Mr. McElroy ended the discussion by recognizing Dr. Visingardi's support of the Commission and its work and wished him well.

Mr. McElroy introduced and announced the appointment of Leza Wainwright, the new Deputy Director for the Division of MH/DD/SAS. Ms. Wainwright spoke briefly about her 25-year history with state government. She has previously worked in the Division as well as other Departments. Dr. Visingardi noted that Ms. Wainwright's strengths are in overall operations and she is well respected by staff of the Division and Area Programs.

Advisory Committee Report

Don Stedman, Committee Chair, opened his report with an update on the Task Force on Housing which had its initial meeting in January. He stated that the Task Force will meet jointly with the Advisory Committee in April and will report to the full Commission at its May meeting. The minutes of the Task Force on Housing meeting of January were distributed.

The Advisory Committee's February 3 meeting, focused on training issues. Dr. Stedman summarized presentations made by Joan Kaye and Karen Stallings on the current training efforts underway in the Division and through the system of Area Health Education Centers (AHEC) within the University System. He stated that the Committee did not have any recommendations at this time and would consider options for the Commission to pursue to support training.

Dr. Stedman informed the Commission that Stephanie Alexander, staff to the Advisory Committee, is leaving the Division. He expressed the Committee's regrets to see her go and wished her success in her new position. Stephanie is going to DFS to become the Chief of Licensure & Certification Section.

Rules Committee Report

Floyd McCullough, Committee Chair, explained that the February 2 meeting of the Rules Committee focused solely on the initial review of the proposed rule revisions to 10A NCAC 27G and the creation of 10A NCAC 27I. He introduced Anna Scheyett, Co-Chair of the Rules Committee to summarize the Committee's review and action on proposed rules changes.

Anna Scheyett reported a panel of staff from the Division presented two packets of rule revisions to the Rules Committee. All Commission members received the proposed revisions in the mailing prior to this Commission meeting. This presentation is the initial review of this set of revisions by the Rules Committee. If these revisions are approved by the Commission, staff would proceed with filing a Notice of Publication of Text to initiate the required 60-day public comment period. Final Commission approval is required following the public comment period.

The purpose for revising the rules as presented:

- Currently all “core” rules are in 27G and pertain to both, but with legislative changes for mental health reform, need revisions to clearly separate management functions (LME) from provider/service functions.
- Created 27I, to contain all administrative/management requirements for LMEs.
- 27I created by:
 - moving/modifying the existing administrative language from 27G that pertained solely to management functions
 - creating new language as needed for LME per the new statutes.

Rules Committee Process:

- Rules Committee discussed the current status of shifts from Area Program to Local Management Entity
- Reviewed each of the new Sections of 27I. Major changes include:
 - Rule .0102: establishes a definition for LME and for a “governing body”
 - Rule .0203: establishes a management record, which the LME will keep that is not the full medical record with progress notes. 27G still contains the requirement for the provider to maintain a full record.
 - Two new requirements of the management record: item 6 and 7, to capture financial information, and to have client sign to indicate choice of providers.
 - Two changes suggested by Rules: item to: “current edition of DSM and ICD” and item clarification of “date of last service” to “date of termination”
 - Rule .0207: is a new requirement for LME to develop and manage a provider network. Staff noted this rule provides the requirement without providing detailed explanation of how the provider network is to be managed. Implementation language is expected to change as the system evolves and will be addressed annually in the Memorandum of Agreement between the Department and each LME as required by statute. Rules Committee suggested adding language under (c)(1) “assessing and maintaining the capacity of the network to meet the needs of the target populations *and facilitate client choice*”
 - Rule .0208: Rules Committee voiced its concern that (b) was far too vague and would result in inconsistencies between LMEs in their requirements for independent practitioners. Staff was instructed to rework the language submitted to include consideration of licensure and certification for independent practitioners during the public comment period.
 - Rule .0210: establishes new LME requirement for performing the systems management functions of the local system.

Ms. Scheyett concluded the report with the recommendation of the Rules Committee to forward the proposed rule changes to the Commission with a favorable report. Mr. McElroy stated that the report comes to the Commission as a motion to approve the proposed rule language for local management entity requirements under 10A NCAC 27I and the proposed rule language for provider requirements under 10A NCAC 27G, as revised by the Rules Committee, and these rules are to be published in the rulemaking process of becoming permanent rules effective July 1, 2004. Since the motion came from a committee, no second was necessary.

Members discussed the proposed rule changes. Dr. Swartz asked about requiring the LMEs to participate in research activities. He stated this may need to be requirement of both the provider agencies and the LMEs. Dr. Swartz stated the need to require research is partly an issue of reform and partly an issue of HIPAA. He would be willing to more closely examine this issue when the proposed rules come out for public comments.

It was suggested considering adding the changes to 10A NCAC 27G .0300 recommended by the Governor's Advocacy Council for Persons with Disabilities (GACPD) as presented in the public hearing. Staff explained the changes requested by GACPD effect the proposed permanent rules that are now under consideration by the Secretary. Once finalized those permanent rules will be consolidated with the rules now under consideration by the Commission to create the new Section 27I.

Again, Mr. McElroy stated the motion is to approve as revised, portion of the LME requirements that are Commission rules, and all of the Provider requirements. The proposed language, if approved, will be published for public comment and come back to the Commission for final approval.

The motion was voted on and adopted unanimously.

Dr. Swartz moved to amend the original motion as passed to address the issue of research: Under Client Rights Committee to add a #7 "procedures for review and approval of human subjects research; and at the end of # 6, strike "and" and add #7. Martha Martinat seconded the motion to amend. The motion passed unanimously.

Director's Report and Division Update

Dr. Visingardi presented the Director's report. He informed the members of the Commission that Communication Bulletin # 015, which contains the draft contract between DHHS and LMEs, effective July 1, 2004, is being mailed to each of them. He urged the members to pay close attention to this document and to provide their feedback to the Division.

The contract does not include draft service definitions. These have been released as a separate set of documents. He reported the cost model is finished and is addressed in the draft contract. Each LME will receive its individualized contract with its funding and Local Business Plan expectations attached.

Issues around consolidation and divestiture were addressed. He stated that he could not recommend area programs with small catchment areas be certified as LMEs because of scale and scope economies. Dr. Visingardi complimented the providers for standing ready and honoring the role of the LMEs.

Following lunch, Mr. McElroy asked if the Council on Community Programs would provide the Commission with an update on their activities and accepted a report from the Legislative Committee.

Carol Clayton, Executive Director, of the NC Council on Community MH/DD/SA Programs, gave a brief summary of the meeting in December 2003 with the Secretary and Association of County Commissioners, Dr. Rich Visingardi and others.

Ms. Clayton said the Council addressed the following at the December meeting:

- The release of State Operation Plan products must be timely to enable the LMEs to be prepared for the changes that will go into effect July 1, 2004;
- There must be an ongoing dialogue between the state and local levels of the system. This communication is essential in seeking a balance between the unique needs of each County/LME and the state's need for consistency across the system;
- Divestiture of clinical services by LMEs must be managed to ensure the provision of necessary services in the local areas, which requires the maintenance of the clinical staff expertise that currently exists. To meet the divestiture requirements, area authorities are undergoing major layoffs of employees. The employment issues around layoffs, particularly employee benefits continue to be of concern; and
- The need for more flexibility in local funding must be addressed. Currently, area authorities receive funding in 43 different categories. A systems manager must be able to use funds as they are needed locally.

Ms. Clayton stated another meeting of this group is planned for the end of February. There was continued discussion around the divestiture and employment/benefit issues and the relationship of these issues to the concerns that the private system will not have the capacity to address the needs of the target populations. Ms. Clayton said the Council is considering a legislative proposal to address employees' benefits and agreed to share this with the membership. Dr. Stedman noted that employment/benefit issues directly relate to the work force training issues discussed at the Advisory Committee. The Chairman suggested that this topic be put on the agenda of a future Commission meeting.

Legislative Committee Report

Judy Lewis updated the members with respect to the Legislative Committee discussions at their meeting over lunch. The members continue to focus on inviting legislators to Commission meetings and developing other public awareness strategies to promote the mission of the Commission. She would like the Legislative Committee to meet in May with the Commission Meeting.

Martha Martinat noted the recent resignation of Senator Metcalf. She made a motion that the Commission send him a letter of appreciation for his work on the Mental Health Oversight Committee. Martha Macon seconded the motion and it passed unanimously.

Developmental Disabilities Advocates Perspective on MH/DD/SA Reform

Karen Stallings, Executive Director of the NC Association of Self Advocates, and current President of the DD Consortium expressed the concerns and needs of the DD population. She stated that most importantly, the service system must listen to consumers and family members and then design our system to address the needs and preferences of the people who need and will use the services and supports. She presented a handout to refer to (attached).

Dave Richard, Executive Director of the Arc of North Carolina, described his advocacy and service organization with over 5,000 members and 44 affiliated chapters in North Carolina. He presented the members with a handout of his remarks (attached).

Jill Hinton Keel, Executive Director of the Autism Society of North Carolina spoke of insuring quality at the local level and support for the outcomes of reform. She voiced concern that the system must be able to address the unique issues of all of the populations.

New Business

Members discussed attendance at the Task Force on Housing meeting, community issues that arise as consumers choose to move from one program to another, and the issue of dental care needs of people with significant disabilities in communities.

Public Comments

Holly Riddle, Director of the NC Council on Developmental Disabilities, gave brief comments on relationships with churches, community businesses, person centered planning, participant direction of services and supports and monitoring and valued outcomes.

Louise Fisher, Volunteer Advocate for the Mentally Ill, gave brief comments about the service needs of persons with mentally illness and the concerns that these may not be met as reform moves forward.

Paula Cox, sister/guardian of resident at Murdoch, expressed her concerns that the Mental Retardation Centers continue to serve individuals such as her sister who benefits from it and who wishes to stay there.

Adjournment

There being no further business to come before the Commission, the meeting adjourned at 3:30 p.m..

Minutes prepared by Peggy Balak.